

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DARNELL W. GILES,

Plaintiff,

- against -

FRANK CABRA and SUFFOLK COUNTY
POLICE DEPARTMENT,

Defendants.
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: **MEMORANDUM DECISION**
: **AND ORDER**
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: 2:18-CV-03125 (AMD) (ST)
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FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ FEB 20 2020 ★

BROOKLYN OFFICE

ANN M. DONNELLY, United States District Judge:

On May 24, 2018, the *pro se* plaintiff, Darnell W. Giles, brought this action against defendants Frank Cabra and the Suffolk County Police Department alleging that the defendants sexually assaulted him during a May 2018 arrest. (ECF No. 1.) The defendants have not been able to contact the plaintiff since July of 2019, when the plaintiff last attended a telephone status conference before Magistrate Judge Steven Tiscione. After several attempts to contact the plaintiff, on November 16, 2019, Judge Tiscione ordered the plaintiff to update the court regarding his whereabouts, and warned that failure to comply would warrant dismissal of the case. (ECF No. 34.) On January 24, 2020, Judge Tiscione recommended that the case be dismissed for failure to prosecute. (ECF No. 36.) No objections have been filed to the report and recommendation, and the time for doing so has passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a

district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted).

I have carefully reviewed Magistrate Judge Tiscione’s report and recommendation and find no error. Accordingly, I adopt the report and recommendation in its entirety and order that the complaint be dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
February 20, 2020